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TO:	Examiner: to be assigned	FROM:	SHELLY GUEST CERMAK
FAX:	703.872.9306	REF. NO:	US-109
VOICE:		PAGES	5 (incl. this sheet)
App. No.:	10/784986	DATE:	December 22, 2004

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- 1) This facsimile cover sheet (1 page)
- 2) Information Disclosure Statement (3 pages)
- 3) PTO-1449 (1 page)

  
Shelly Guest Cermak  
Registration Number 39,571

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Att'y Dkt. No. US-109  
U.S. App. No. 10/784986

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Hirano et al.

Appl. No.: 10/784986

Filing Date: February 25, 2004

Title: NOVEL LYSINE DECARBOXYLASE GENE  
AND METHOD FOR PRODUCING L-LYSINE**RECEIVED  
CENTRAL FAX CENTER****DEC 22 2004**

Art Unit: 1652

Examiner: to be assigned

Att'y. Docket: US-109

**INFORMATION DISCLOSURE STATEMENT**

**Mail Stop Non-Fee Amendment**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Listed on the accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that an exhaustive search has been made, or that there does not exist information more material to the examination of the present patent application. The Examiner is specifically requested not to rely solely on the material submitted herewith. It is further understood that the Examiner will review art of record in all 35 U.S.C. § 120 priority documents.

- ☒ 1. This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. No certification or fee is required.
- ☐ 2. The Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.
- ☐ a. Below is a certification under 37 C.F.R. § 1.97(e).
- ☐ b. Attached is my check no. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ in payment of the fee under 37 C.F.R. § 1.17(p).
- ☐ c. Please charge my Deposit Account No. 50-3077 in the amount of \$ \_\_\_\_\_ for the fee under 37 C.F.R. § 1.17(p)

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- ☐ 3. This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee. Applicant hereby Petitions that the Information Disclosure Statement be considered. ☐ Attached is my check ☐ please charge my Deposit Account No. 50-3077 in the amount of \$180.00 in payment of the fee under 37 C.F.R. § 1.17(p).
- ☐ 4 Certification(s) under 37 C.F.R. § 1.97(e):
- ☐ a. I hereby certify that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).
- ☐ b. I hereby certify that no item of information on this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
- ☐ 5. Relevance of the non-English language document(s) is discussed in the present specification. See pages \_\_\_\_\_ of the specification of the present application.
- ☐ 6. The document(s) was/were cited in a corresponding foreign application; ☐ a copy of a search report issued in the foreign application is attached, and/or ☐ an English language version of the foreign search report is attached for the Examiner's information. M.P.E.P. § 609 III (A)(3).
- ☐ 7. A concise explanation of the relevance or a direct translation of the non-English language document(s) ☐ is attached hereto or ☐ appears below.
- ☒ 8. One or more of the items of information on this Information Disclosure Statement constitute a related patent application. It has been determined by viewing Private PAIRS that these related patent applications are available to the Examiner through the USPTO's Image File Wrapper System (IFW), and therefore, a copy or copies of the specification, including claims, and drawings have not been provided, in accordance with the "Waiver of the Copy Requirement in 37 C.F.R. § 1.98 for Cited pending U.S. Patent Applications" issued September 21, 2004. If the related patent applications are not available via the IFW, a copy or copies are provided herewith. If these applications are published, the citation is to the Publication Number. The identification of this (these) U.S. Patent Application(s) is not to be construed as a waiver of secrecy as to that application(s) now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited application and the art cited therein during examination.
- ☐ 9. Copies of the documents were cited by or submitted to the Office in Application No. \_\_\_\_\_, filed \_\_\_\_\_, which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).


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- ☐ 10. Copies of the documents cited in the International Search Report (PCT/ISA/210) and/or the International Preliminary Examination Report (PCT/IPEA/416) have been received by the U.S. P.T.O., as indicated on the Notification of Acceptance (PCT/DO/EO/903); accordingly, additional copies are not provided herewith. M.P.E.P. §§ 609 II, 1892.03(g).
- ☒ 11. Copies of the U.S. patent documents cited on the PTO-1449 filed herewith are NOT provided, in accordance with Information Disclosure Statements May Be Filed Without Copies of U.S. Patents and Published Applications in Patent Applications filed after June 30, 2003, 1276 Off. Gaz. Pat. Office 55 (August 5, 2003).
- ☐ 12. Other: \_\_\_\_\_.

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

Respectfully submitted,

By:

  
Shelly Guest Cermak  
Reg. No. 39,571

Date: December 22, 2004

### U.S. P.T.O. Customer Number 38108

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FORM PTO 1449  <u>INFORMATION DISCLOSURE STATEMENT</u>	ATTY. DKT. NO.: US-109	APP. NO.: <b>10/784986</b>
	APPLICANT(S): Hirano et al.	
	FILING DATE: 2-25-2004	Group Art Unit: 1652

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	PUB'N DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	2004/0146974	7-29-2004	Gunji et al.			11-20-2003
	10/716470		Gunji et al.			11-20-2003
	2004/0142435	7-22-2004	Gunji et al.			11-20-2003
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	2004/0214296	10-28-2004	Asahara et al.			1-21-2004
	2004/0166570	8-26-2004	Yasueda et al.			2-6-2004
	09/926299		Gunji et al.			10-9-2001
	6,461,852	10-8-2002	Tsujimoto et al.			8-3-2000
	2003/0013174	1-16-2003	Tsujimoto et al.			8-9-2002
	2003/0166174	9-4-2003	Ono et al.			12-4-2002
	2003/0232338	12-18-2003	Usuda et al.			6-12-2002
	2003/0049805	3-13-2003	Nagase et al.			10-22-2002
	2003/0124687	7-3-2003	Gunji et al.			6-11-2002
	2004/0170987	9-2-2004	Usuda et al.			2-28-2003
	2004/0170986	9-2-2004	Usuda et al.			2-28-2003
	2004/0170985	9-2-2004	Usuda et al.			2-28-2003
	10/791853		Takeshita et al.			3-4-2004
	2004/0191875	9-30-2004	Takeshita et al.			3-4-2004

## FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
						<input type="checkbox"/> Yes <input type="checkbox"/> No
						<input type="checkbox"/> Yes <input type="checkbox"/> No
						<input type="checkbox"/> Yes <input type="checkbox"/> No
						<input type="checkbox"/> Yes <input type="checkbox"/> No
						<input type="checkbox"/> Yes <input type="checkbox"/> No

OTHER (Including Author, Title, Date, Pertinent Pages, Publisher, etc.)


EXAMINER	DATE CONSIDERED
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.	